



**4154-01**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Administration for Community Living**

Information Collection; New Funding Formula for the State Councils on Developmental Disabilities (SCDDs) and Protection and Advocacy Systems (P&As) located in each State and Territory.

**AGENCY:** Administration on Intellectual and Developmental Disabilities (AIDD), Administration on Disabilities (AoD), Administration for Community Living (ACL), Department of Health and Human Services (HHS), HHS.

**ACTION:** Notice of Guidance

**SUMMARY:** The Administration on Intellectual and Developmental Disabilities (AIDD) within the Administration on Disabilities (AoD), located within the Administration for Community Living (ACL) at the United States Department of Health and Human Services (HHS), is soliciting comments from the public on the New Funding Formula for the State Councils on Developmental Disabilities (SCDDs) and Protection and Advocacy Systems (P&As) located in each State and Territory.

**DATES:** To ensure consideration comments must be received no later than **[INSERT DATE 30 DAYS AFTER PUBLICATION]**.

**ADDRESSES:** The revised formula is described below and a table demonstrating the effects of the revised formula on allocations to States based on the FY 2016 appropriations can be found at the website: [http://www.acl.gov/About\\_ACL/Allocations/DD-Act.aspx](http://www.acl.gov/About_ACL/Allocations/DD-Act.aspx). Please email comments

to AIDDformula@acl.hhs.gov. Emailed comments are preferred, but comments may be submitted via mail to: Andrew Morris, Office of the Commissioner, Administration on Disabilities, US Department of Health and Human Services, 330 C St. SW, Washington, DC 20201. Please note comments sent through the mail must be received by the close of business on the date the comment period closes or they will not be considered. Also, please note that we are only accepting comments related to the new formula and will not respond to comments on other subjects submitted through this process.

**FOR FURTHER INFORMATION CONTACT:** Andrew Morris, Office of the Commissioner, Administration on Disabilities, 330 C St. SW, Washington, DC 20201. Telephone (202) 795-7408. E mail andrew.morris@acl.hhs.gov. Please note the telephone number is not toll free. This document will be made available in alternative formats upon request. Written correspondence can be sent to Administration for Community Living, U.S. Department of Health and Human Services, 330 C St. SW, Washington, DC 20201.

**SUPPLEMENTARY INFORMATION:**

**Background:**

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (P.L. 106-402) (DD Act) provides, among other things, formula grants to States for the purpose of operating State Councils on Developmental Disabilities and Protection & Advocacy Systems for People with Developmental Disabilities. The DD Act provides authority and flexibility in Section 122 to AIDD to determine the formula for allocating annual grant awards using three statutory factors for determining each state's funding amount. These factors are:

1. Total population of the state/territory
2. Need for services for people with DD in the state/territory

### 3. Financial need of the state/territory

The current formula is out of date. For example, the current formula uses the best data points available in the 1970s/1980s for determining need for services and financial need. These data are now outdated and severely undercount the population of individuals with developmental disabilities. The updated formula is believed to be more clear, concise, transparent, and consistent with Congress' intent to provide funds to states based on greatest need.

In addition to the formula, the DD Act prescribes minimum allotments for states with small populations and territories (Puerto Rico is not considered a territory under the DD Act). About half of the states receive a minimum allotment. The DD Act also requires adjusting (increasing) the minimum allotment amounts if certain criteria are met. After minimum allotments are met, the remaining appropriations are allocated using the formula.

Finally, the Act requires a hold-harmless for the State DD Councils that was passed as an amendment to the DD Act in 2003, P.L. 108-154. Through this hold-harmless clause, SCDD awards are based on the award amount from the previous year, FY 2000, FY 2001, or FY 2002, whichever is highest. If there are not enough funds available to fully fund all of the awards, the SCDDs then receive an equal percent reduction. It is important to note that a new formula may not immediately impact the SCDDs due to the hold harmless clause. The new formula would impact the SCDDs only when appropriations rise to such a level that all SCDDs would receive an increase in allotments above the previous fiscal year's award level.

#### **Methodology:**

AIDD convened a workgroup of researchers, retired SCDD and P&A directors, national associations, and AIDD staff in the spring of 2015 and held four meetings over a two month period. The workgroup reviewed the three elements required for the formula and discussed each,

identifying potential data sources for each element in cooperation with the HHS Assistant Secretary for Policy and Evaluation (ASPE). The workgroup discussed the strengths and challenges of the different data and based on these discussions provided recommendations to AIDD. In addition, the workgroup worked with the Grants Management Office at ACL to test the impact of different scenarios.

**Revised Formula:**

Beginning in FY 2017, AIDD's State DD Councils and P&A grants will use a new formula to distribute funds after meeting statutory minimums and hold-harmless requirements:

1. *State/Territory Population (30%)*: Based on July Census figures released in August of each year
2. *Need for services (30%)*: Based on a 1.58 percent prevalence rate for developmental disabilities in each State and Territory from the HHS National Health Interview Survey on Disability (NHIS-D).

In determining the need for services, the workgroup discussed using data sources such as Medicaid and the Individuals with Disabilities Education Act; concluding that these data are unreliable because each State determines program eligibility and reporting requirements differently. The prevalence rate for developmental disabilities of 1.58 percent was established by the Federal government in the early 1990s through the NHIS-D and is still the most current prevalence rate available that meets the definition of Developmental Disabilities per the DD Act.

3. *Financial need (40%)*: Use a combination of poverty (20%) and unemployment rates (20%) from July of each calendar year.

The workgroup thought it was best to use a combination of a State/Territory's poverty

and unemployment rates because it best reflects the economic status of a State/Territory and, thus, their financial need.

**Request for Comments:**

This notice invites public comment on the new formula for the SCDD and P&A annual awards. We seek diverse perspectives including, but not limited to, that of grantees, technical assistance providers, and advocates, as well as federal agencies and for-profit and not-for-profit stakeholders. The comments will be important factors in finalizing the formula.

*Privacy Act Notification Statement:* Responses to this guidance notice are voluntary.

Respondents are advised that the Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential, or sensitive information should be included in your response.

Dated: February 11, 2016.

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**Aaron Bishop,**

Commissioner,

Administration on Disabilities

